



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 70

[Docket No. TTB-2021-0004; T.D. TTB-169]

RIN 1513-AC56

Removal of Obsolete Regulation Regarding Rewards for Information Relating to Violations of Tax Laws Administered by the Alcohol and Tobacco Tax and Trade Bureau

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: In this final rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is removing obsolete regulatory provisions related to whistleblower rewards. Under the Internal Revenue Code, individuals who provide information to the Treasury Department regarding underpayment of taxes or violations of internal revenue laws may file claims for monetary “whistleblower” awards. Recent changes to the Code have made the TTB regulation regarding whistleblower rewards obsolete, and, therefore, TTB is removing that provision from its regulations. TTB has signed a memorandum of understanding with the Internal Revenue Service, under which the Internal Revenue Service will process whistleblower award claims for information regarding underpayment of taxes collected by TTB or violations of the internal revenue laws administered by TTB.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; 202–453–1039, ext. 135.

SUPPLEMENTARY INFORMATION:

Background

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the following provisions of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.): Chapter 51 (imposing Federal excise tax on distilled spirits, wine, and beer), chapter 52 (imposing Federal excise tax on tobacco products and cigarette papers and tubes), and sections 4181–4182 (imposing Federal excise tax on firearms and ammunition). TTB administers these provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). The Secretary of the Treasury (the Secretary) has delegated related IRC administrative and enforcement authorities to TTB through Treasury Order 120–01. The Secretary also has delegated administration and enforcement of other internal revenue laws to the Internal Revenue Service under Treasury Order 150–10.

Under section 7623 of the IRC (26 U.S.C. 7623), individuals who provide information to the Department of the Treasury that is used to detect underpayments of Federal taxes or violations of internal revenue laws may be eligible for monetary “whistleblower” awards under regulations issued by the Secretary.

TTB had previously issued a whistleblower reward regulation at 27 CFR 70.41. However, amendments to the Internal Revenue Code have made this regulation obsolete. See the amendments made to 26 U.S.C. 7623 by section 406 of the Tax Relief and Health Care Act of 2006 (Pub L. 109–432), section

41108 of the Balanced Budget Act of 2018 (Pub. L. 115–123), and section 1405 of the Taxpayer First Act (Pub. L. 116–25). As a result of these statutory amendments, described more fully below, § 70.41 has become obsolete, and TTB is removing that section from its regulations in 27 CFR Part 70, Procedure and Administration.

Section 406 of the Tax Relief and Health Care Act of 2006 significantly revised 26 U.S.C. 7623 and required the Treasury Department to establish a “Whistleblower Office” within the Internal Revenue Service (IRS) to analyze information received by whistleblower claimants and determine the amount of any award under 26 U.S.C. 7623(b). The IRS Whistleblower Office processes claims pertaining to underpayments of tax that are owed to the IRS or violations of internal revenue laws administered by the IRS that may be eligible for an award under 26 U.S.C. 7623(a) and (b). See IRS Delegation Order 25–07 (delegation to the Whistleblower Office of the authority to approve IRS discretionary awards under section 7623(a)). Section 41108 of the Balanced Budget Act of 2018 then clarified the definition of “collected proceeds” from which the Treasury Department may make awards to whistleblowers. The Taxpayer First Act further amended 26 U.S.C. 7623 by establishing a notification process for whistleblowers and adding protections for whistleblowers against retaliation.

To modernize the process for accepting, processing, and rewarding whistleblowers and to give effect to the statutory changes, TTB has entered into a memorandum of understanding (MOU) with the IRS Whistleblower Office. As set forth in that MOU, the IRS Whistleblower Office will accept claims from whistleblowers via IRS Form 211, Application for Award for Original Information, and refer such information to TTB when applicable. TTB will determine if the information is actionable after any investigation undertaken, collect proceeds,

and provide information, including an evaluation of the whistleblower's contributions, to the IRS Whistleblower Office. The IRS Whistleblower Office will process all TTB-related whistleblower award claims filed under 26 U.S.C. 7623 under the IRS regulations and procedures. Under the MOU, the IRS will consider references to the "Internal Revenue Service" or "IRS" in the relevant IRS regulations and procedures to include TTB personnel and TTB actions when appropriate.

Updated information on the whistleblower program, including how and where to file such claims with the IRS Whistleblower Office is available on the TTB Web site at *www.ttb.gov*.

Regulatory Analysis and Notices

Executive Order 12866

It has been determined that this notice is not a significant regulatory action as defined in Executive Order 12866 of September 30, 1993. Therefore, a regulatory assessment is not necessary.

Inapplicability of Prior Notice and Public Comment Procedures and Delayed Effective Date

TTB is issuing this final rule without prior notice and opportunity for public comment pursuant to authority under section 4(a) of the Administrative Procedure Act, as amended (APA) (5 U.S.C. 553(b)(B)). That provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." In this final rule, TTB is removing a regulatory provision that has become obsolete due to statutory changes, so TTB finds that prior notice is unnecessary. TTB also finds that it is unnecessary to provide a delayed effective date for revoking its obsolete regulation under section 4(c) of the APA (5 U.S.C. 553(d)); this rule is therefore effective immediately.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Pursuant to 26 U.S.C. 7805(f), TTB submitted this final rule to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on the impact of the regulations on small businesses. TTB received no comments from SBA in response to this final rule.

Paperwork Reduction Act

This final rule imposes no new collection of information. The IRS will account for any burden associated with additional respondents to its information collection, IRS Form 211, Application for Reward for Original Information (20,000 annual respondents and 15,000 burden hours), which has been previously reviewed and approved by OMB and assigned control number 1545–0409.

Drafting Information

Michael Hoover of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

List of Subjects in 27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Amendments to the Regulations

For the reasons discussed in the preamble, TTB is amending 27 CFR chapter I, part 70 as follows:

PART 70—PROCEDURE AND ADMINISTRATION

1. The authority citation for part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5123, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430,

7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653,
7805.

§ 70.41 [Removed and Reserved]

2. Section 70.41 is removed and reserved.

Signed: June 21, 2021.

Mary G. Ryan,

Administrator.

Approved: June 21, 2021.

Timothy E. Skud,

*Deputy Assistant Secretary
(Tax, Trade and Tariff Policy).*

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